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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,993	05/11/2005	Gerard Hayes	TOMK:015	7267
37013 7590 04/28/2009 ROSSI, KIMMS & McDOWELL, LLP. 20609 Gordon Park Square, Suite 150 Ashburn, VA 20147				
EXAMINER DOUGLAS, STEVEN O				
ART UNIT		PAPER NUMBER		
3771				
MAIL DATE		DELIVERY MODE		
04/28/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/517,993

Applicant(s)

HAYES ET AL.

Examiner

/Steven O. Douglas/

Art Unit

3771

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-26 and 28-30 is/are rejected.
- 7) ☒ Claim(s) 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24,25,28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burbig (US 3,319,632) in view of Rosen et al. (US 5,240,015).

The Burbig reference discloses a smoking article treatment device including a squeeze container 10,210 and a delivery feature 18,218 that can most certainly be arranged for a single or one-time use, but the Burbig reference fails to disclose the dispensing of a viscous fluid (i.e. corn syrup). The Rosen et al. reference discloses another smoking article treatment device that dispenses a viscous fluid (i.e. corn syrup) to the smoking to trap tar and nicotine within the filter of the smoking article. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a viscous fluid such as corn syrup for use with the device of Burbig in view of the teachings of the Rosen et al. reference to trap tar and nicotine within the filter of the smoking article.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burbig (US 3,319,632) in view of Rosen et al. (US 5,240,015) and further in view of Mueller'100.

The Burbig reference discloses a dispensing apparatus (supra), but does not disclose the container as including a metering valve. The Mueller reference discloses another squeeze-type

dispensing container having a spring-based fluid metering valve 124 (see Fig. 11) to facilitate precise metering of fluid from the container. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Burbig container to have a metering valve in view of the teachings of the Mueller'100 reference to facilitate the precise metering of fluid from the container.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burbig (US 3,319,632) in view of Rosen et al. (US 5,240,015) and further in view of Strater.

The Burbig reference discloses a dispensing apparatus (*supra*), but does not disclose a plurality of delivery features. The Strater reference discloses another dispensing container with a multiplicity of disposable delivery features discussed *supra* (i.e. needles 16) so as to accommodate dispensing a controlled quantity of fluid to an exact (or hard to reach) location. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a multiplicity or plurality of delivery features with the device of Burbig in view of the teachings of the Strater reference to accommodate dispensing a controlled quantity of fluid to an exact (or hard to reach) location.

Allowable Subject Matter

Claim 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 24-30 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Steven O. Douglas/ whose telephone number is (571) 272-4885. The examiner can normally be reached on Mon-Thurs 6:30-5:00.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven O. Douglas/
Primary Examiner
Art Unit 3771

SD
4/26/09